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In re Application of
ISLAM et al.

Application No.: 09/646,859

PCT No.: PCT/US99/03367

Int. Filing Date: 17 February 1999

Priority Date: 17 February 1998

Attorney Docket No.: ISLAM 2

For: SELF-SYNCHRONIZATION OF AN OPTICAL
PACKET NETWORK USING SEED PULSES
EXTRACTED FROM WITHIN THE PACKETS

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

This decision is in response to the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)" submitted by applicants on 25 September 2000.

BACKGROUND

On 17 February 1999, applicants filed international application PCT/US99/03367, which claimed a priority date of 17 February 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 19 August 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 21 June 1999, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 17 August 2000.

On 25 September 2000, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 25 September 2000, applicants also filed the instant petition under 37 CFR 1.137(b).

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:

- (1) The required reply;
- (2) The petition fee;
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicants submitted the basic national fee on 25 September 2000. The Transmittal Letter indicated the basic national fee as \$930.00 as the fee required under 37 CFR 1.492(a)(5). The actual fee at the time of payment under 37 CFR 1.492(a)(5) was \$840.00 and it was this amount which was charged to Deposit Account 03-3325. However, because the requirements of 37 CFR 1.492(a)(4) have been met, the fee which should have been charged was \$96.00. The balance of \$744.00 has been credited to Deposit Account 03-3325.

As to item (2), the requisite petition fee of \$1,210.00 was submitted on 25 September 2000.

With regard to item (3), petitioner's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR § 1.137(b) was unintentional" satisfies this requirement.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is GRANTED for the reasons set forth above.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision, including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for submitting the declaration later than thirty months from the priority date.



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